Supreme Court, U.S.
FILED
931951 MAY 9 1994
OFFICE OF THE CLERK

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

DAWN ELISE DYKSTRA

PETITIONER

V.

UNITED STATES OF AMERICA

RESPONDENT

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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92 pp

QUESTION PRESENTED

BY WHAT LEGAL CITED AUTHORITY CAN U.S. JUDGES/ATTORNEYS/POLICE. AND COUNSEL. (A)STEAL CITIZEN RIGHTS REGARDING (B)KEEPING ARMSA2. INVADING PERSON & RESIDENCE VIA (C)WARRANTLESS ARREST, SEARCH AND SEIZUREA4, (D)COUNSELESS INTERROGATIONA5. (E)FALSE CHARGESA5. (F)FAIL EFFECTIVE COUNSELA6. (G)VOID PROCESS FOR FAVORABLE WITNESSESA6. (H)ALLOW GOVERNMENT PERJURY AND (I)EVIDENCE TAMPERINGA6. DEPRIVE OF (J)LIBERTY AND (K)PROPERTY WITHOUT DUE PROCESSA5 FOR FIVE MONTHS. (L)WITHHOLD EVIDENCE. (M)UNCONSTITUTIONAL RULINGSA5. (N)COMPEL BY JUDGE BREACHED ILLEGAL A5 CONTRACT CITIZEN (O)INCRIMINATION OF SELF A5. WITH(P)THREATS OF UNUSUAL PUNISHMENTA8 TO (Q)COERCE GUILTA13 WITHOUT ANY GRIEVANCE (R)REDRESSA1?

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DAWN DYKSTRA, RESPECTFULLY PETITIONS THAT A WRIT OF CERTIORARI ISSUE TO REVIEW THE JUDGEMENT ORDER AND MEMORANDUM OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT DUE TO COURT BIAS OMITTING PETITIONER U.S. CONSTITUTIONAL RIGHTS. THE APPEALS COURT REFUSES TO REVIEW CHRONOLOGICALLY AND VALIDATE FROM PETITIONER'S ARREST UNTIL THE GUILT CONTRACT WAS PRESENTED FOR SIGNATURE, 154 DAYS VOID OF LEGAL DUE PROCESS.

OPINIONS BELOW

THE OPINION OF THE COURT OF APPEALS IS A MEMORANDUM UNITED STATES V. DYKSTRA 93-55747, APPENDIX A. REJECTION OF ALL MOTIONS. APPENDIX B. REJECTION FOR FULL APPELLATE COURT HEARING REQUEST UNITED STATES V. DYKSTRA 93-55747, APPENDIX C.

JURISDICTION

THE COURT OF APPEALS' OPINION IN THIS

MATTER WAS FILED ON JANUARY 7, 1994. A TIMELY PETITION FOR REHEARING WAS FILED ON JANUARY 15, 1994. THE COURT OF APPEALS' DENIAL OF THE PETITION FOR REHEARING WAS ISSUED ON MARCH 30,1994 THIS COURT'S JURISDICTION IS INVOKED UNDER (SUPP CT INFO) TITLE 28, U.S.C. 2255. PETITIONER HAD TWO APPEAL AND ONE TRIAL ATTORNEY QUIT WITH NO WORK AND RETAIN FEE FORCING PRO SE. [C.A.B. 2-30, U.S. V SAUNDERS, CA CD 6068, A.B.A. 700].

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

GOVERNMENT ACTS AGAINST AMENDMENTS 1, 2, 4,5,6,8,13, JUDICIAL ART. 3, 6 & EXEC. ART. 2 ARE SET FORTH IN REASON FOR WRIT. NOTE: THE STATEMENT OF THE CASE NARRATIVE HAS EVENT CODING TO INDICATE PETITIONER "(_)" QUESTION" AND "A_" CONSTITUTIONAL AMENDMENTS # VIOLATED.

STATEMENT OF THE CASE

THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF CALIFORNIA, HAD JURISDICTION PURSUANT TO TITLE 18 U.S.C. (SP CT INFO) 3231. THE CASE IN THE TOTALLITYA5 REQUIRING CONSTITUTIONAL STRICT SCRUTINY STARTED ON SEPTEMBER 12, 1990. THE D.E.A. AGENT IN CHARGE HELD HIS LOADED GUN TO THE HEAD OF AN ARRESTED MR. GOMEZ TO FORCE TELEPHONE CALLS WITH THE D.E.A. AGENT WORDS. THE NEAR 7 PM LOADED GUN CONVERSATION ENTRAPPED MS. WARDEN, AND THEN MS. WARDEN WAS REQUIRED TO SHOW THE D.E.A. WHERE THE PETITIONER LIVED. THE D.E.A. AGENT HAD AN 8:15 PM RENDEZVOUS WITH LOCAL POLICE, AND THE D.E.A. REJECTED THE POLICEMAN'S NOTICE TO (C) OBTAIN WARRANTSA4 FOR THE PLANNED SEARCH AND ARREST OF THE PETITIONER.

AT THE RESIDENCE THE D.E.A. TEAM WERE

UNABLE TO PUBLICLY VIEW FROM THE STREET INTO THE RESIDENCE DUE TO A CLOSED KITCHEN DOOR BEYOND AN OPEN GARAGE DOOR. AT 8:20 PM THE D.E.A. SENT A GUN DRAWN D.E.A. AGENT TO THE (A) PETITIONER'S RIGHT SIDE RESIDENCEA4 KITCHEN WINDOW IN THE DARK OF NIGHT. THE AGENT VIEWED THE TWENTY YEAR OLD FEMALE PETITIONER COOKING THE EVENING MEAL WITH NO GUNS, DRUGS OR OTHER PERSONS PRESENT.

THE LOCAL POLICEMAN FROM THE RENDEZVOUS APPEARED AT THE RESIDENCE AT 8:25 PM. THE D.E.A. AGENT IN CHARGE AND OTHER AGENTS NO KNOCK (C) TRESPASSEDA4 THE PETITIONER'S UTILITY ROOM AREA, SEARCHED (C) THE INSIDE RESIDENCE HOUSED VEHICLE TRUNKA4 AND (K) CONFISCATEDA4 IT. THE D.E.A. TEAM (C) SEARCHED THE UTILITYA4 ROOM. THE PETITIONER HEARD A NOISE BEYOND HER KITCHEN, OPENED THE WOOD DOOR, AND

PETITIONER WAS ARRESTED BY AGENTS STANDING (C) INSIDE HER RESIDENCEA4 UTILITY ROOM AS SHE STOOD FULL IN HER KITCHEN. THIS TRESPASS WAS OBSERVED BY TWO EYE WITNESSES AND BY MS. WARDEN (J). THE PETITIONER WAS (C) BODYA4 SEARCHED WITH FINDING A FEW GRAMS OF METH.. TEAM INTERROGATED (D)A5 AND TEAM RESIDENCEA4 SEARCHED FOR 45 MINUTES WITHOUT FINDING OF ANY MONEY OR DISTRIBUTION DRUGS. THE PETITIONER WAS DENIED A REQUEST TO CONTACT AN (D) ATTORNEYA5. COERCED TO SIGN A PARTIALLY FILLED IN CONSTITUTIONAL AVOIDANCE SEARCH CONSENTA5 AFTER THE SEARCH WAS COMPLETE, WITHOUT (C) WARRANTSA4 OR MIRANDA (D) WARNINGA4A5A6. THE MIRANDA NOTICE WAS STATED AT 9:20 PM, 50 MINUTES AFTER (D) ARREST AND INTERROGATION STARTA4A5 AND ONE HOUR AFTER SEARCH START. PETITIONER WAS (D),

INTERROGATED FOR A PERIOD OF SIX MORE HOURS WITHOUT COUNSELA5A6. AT 3 AM THE PETITIONER WAS FORCED TO SIGN A CONSENT TO SEARCH HER BANK RECORDS AND ASSET BOX. AT 4 AM THE U.S ATTORNEY KNOWING OF THE D.E.A. ILLEGAL A1A4 ACTS, TELEPHONE RESPONDED TO THE CENTER TO(A) INCARCERATE THE PETITIONER. PETITIONER WAS ARRAIGNED BY A U.S. MAGISTRATE AT 2 PM, AND FIRST TELEPHONE (D) CALL 21 HOURS AFTER ARRESTA5A6.

THE U.S. ATTORNEY CHARGED ALL THREE DEFENDANTS WITH KNOWINGLY POSSES WITH INTENT TO DISTRIBUTE, 3 LBS. METHAMPHETAMINE, A SCHEDULE XXVII CONTROLLED SUBSTANCE, IN VIOLATION OF TITLE 21. U.S. CODE SECTIONS 846 AND 841(A)(1). DURING THE ARRAIGNMENT THE U.S ATTORNEY PERJURED A1A5 THE RECORD BY STATING BANKING FUNDS INVESTIGATED THAT

MORNING, AS UNTOUCHED SINCE AGE 13 AS PARENTAL GIFTS, WERE DRUG MONEYA1. THE U.S ATTORNEY SAID FOR THE RECORD THE GUN IN THE NIGHT STAND DRAWERA2 AND THE GUN ON THE FLOORA2 CONFISCATED DURING WARRANTLESS TRESPASS WERE UNLOADED, AND LATER BOTH THE U.S. ATTORNEYA5A8 AND THE D.E.A. AGENTA5A8 IN CHARGE PERJURED THE RECORD THAT THE GUNS WERE LOADED. SEPTEMBER 17 DEFENSE COUNSEL FRANK SIGNATURED A CONTRACT REQUIRING PURSUIT OF PETITIONER CONSTITUTIONAL RIGHTS. THE PETITIONER WROTE AND NOTARY SIGNATURED A TRUTHFUL 9/21 STATEMENT OF THE EVENTS PRIOR TO THE 10/4 POLICE REPORT. HIRED COUNSEL ATTEMPTED TO TRAP HIS PETITIONER CLIENT TO BAIL RESCINDING BY ASKING IF THE PETITIONER HAD TALKED WITH A CODEFENDANTA6A5. FIRST WEEK THE U.S. ATTORNEY ASKED THE PETITIONER TO PLEAD

GUILT, AND FILED A GUILT DEAL REFUSAL RETALIATORY GUN (E) CHARGEA1A5A6 TO THE 9/26/90 GRAND JURY FOR PETITIONER AND GOMEZ AS USERS OF A CONTROLLED DRUG SUBSTANCE TITLE 21, U.S.C. SECTION 802 KNOWINGLY AND UNLAWFULLY POSSES AND AFFECTING COMMERCE FIREARMS IN VIOLATION OF TITLE 18 SECTIONS 922(G)(3) AND 924(A). THE DRUG USER CHARGE WAS IN OPPOSITION (H)(I) TO THE U.S. ATTORNEY EVIDENCE SHOWING THE PETITIONER WITH ZERO DRUG USE, AND NO TESTS FOR GOMEZ. THE GUN CHARGE REQUIRED THE U.S. ATTORNEY PERJURE (H) THE ELEMENTS OF THE CHARGE TO THE GRAND JURY. THE D.E.A. AGENT (H) PERJURED THE RECORD FOR GOMEZ AND THE PETITIONER PROPER CHARGE CIRCUMSTANCEA1A4A8. COUNSEL FRANK STATED THE CONSTITUTION DOES NOT ALLOW KEEPING OF (F) ARMSA2A5A6 IN A RESIDENCE. THE GUN CHARGE BY THE U.S

ATTORNEY REQUIRED THE PETITIONER BE A SUBSTANTIATED DRUG USER. BOTH COUNSELS (F) A2A5A6 REFUSED TO CHALLENGE THE FIVE YEAR SENTENCE DASTARDLY DRUG USER/GUN CHARGE A1A2A5A6A8. THE D.E.A LAB RIGGED THE PETITIONER TEST DATA IN DOUBLE TESTING AND CONTAINER SWITCHING TO MATCH 3 POUNDS OF METHAMPHETAMINE CONFISCATED THREE HOURS PRIOR TO THE PETITIONER'S ARREST. COUNSEL REFUSED TO ASK THE U.S. ATTORNEY TO ALLOW EXPERT WITNESS TESTING OF BOTH DRUG SAMPLES.

ON SEPTEMBER 27 CODEFENDANT GOMEZ RECEIVED A LETTER FROM HIS ASSIGNED COUNSEL JOHNSON REGARDING A DEAL WORKED OUT WITH THE U.S. ATTORNEY . FOR THE DEFENDANT TO CONFESS TO THE U.S. POLICE WITHOUT COUNSEL A5A6 PRESENT AND IN TURN THE U.S. ATTORNEY FOR 15 YEAR SENTENCE WOULD DROP HIS RETALIATORY GUN/DRUG USER

CHARGE. ON OCTOBER 14 PETITIONER (F) COUNSEL FRANK QUIT WITHOUT WORK, AND NO NOTICE TO THE (F) COURTA6J3. OR REFUND OF FEEA6. ON NOVEMBER 1 NEW COUNSEL (H) ROBINSON PERJURED THE COURT RECORD BY SIGNATURING THE CHANGE OF ATTORNEYS WAS VOLUNTARYA6A8. ON NOVEMBER 6 NEW COUNSEL FILED MOTION TO SUPPRESS EVIDENCE. ON NOVEMBER 26 COUNSEL FILED A PETITIONER REQUIRED ADDENDUM MOTION. THE REQUIRED (F) ADDENDUM INCLUDED RECORD COMPLAINT OF "EVIDENCE ILLEGALLY SEIZED FROM DEFENDANT'S HOME AND HER ILLEGALLY OBTAINED STATEMENTS MADE AFTER HER ARREST." A4A5A6, BUT NO CHALLENGE (F) TO THE DRUG USER, GUN (E) CAR THEFTA6. ON NOVEMBER 23 THE U.S ATTORNEY FILED (A) INAPPLICABLE HOT PURSUIT WITHIN THE PETITIONER RESIDENCE (H) "SANTANA" AUTHORITY. THE HEARINGS FOR ILLEGAL

EVIDENCE WERE HELD 12/3/90, 1/3,/4 1991. COUNSEL DISMISSED THE WITNESS SUBPOENAED LOCAL POLICEMAN WHO WOULD HAVE PROVEN THE D.E.A. PERJURY, TRESPASS AND FORGED DOCUMENT TIME, COUNSEL DISMISSED THE PETITIONER HIRED EYE DOCTOR WHO COULD HAVE PROVEN THE PETITIONER ARREST TESTIMONY AND THE D.E.A. AGENTS PERJURY. COUNSEL TOLD THE PETITIONER SHE WOULD NOT TESTIFY AND CALLED HER TO THE STAND WITH ZERO PREPARATION, COUNSEL TOLD THE INVESTIGATOR THE SCIENTIFIC PROOF OF GOVERNMENT PERJURY WOULD BE ADMITTED IN COURT HEARING AND THEN COUNSEL FAILED TO ASK FOR MOST OF IT FOR THE RECORD. TWO D.E.A. AND ONE I.R.S. AGENT PROVIDED PERJURED TESTIMONY FOR CONSTITUTIONAL HEARINGSA5A8. THE GOVERNMENT SEARCH CONSENT REQUEST, COURT ALLOWED AS A4J3J6 A CONSTITUTIONAL SUBSTITUTE. WAS NOT

FILLED IN PRIOR TO PETITIONER SIGNATURE A1A4. THE FOUR EYE WITNESSES TO THE GOVERNMENT NO NOTICE TRESPASS TESTIFIED, TWO OTHER WITNESSES TESTIFIED TO OTHER GOVERNMENT CONSTITUTIONAL VIOLATIONS INCLUDING PHYSICAL VIOLENCE, AND THE EXPERT WITNESS TESTIFIED ON THE ARREST SCENE. COUNSEL MANEUVERED THE LACK OF MEDICAL AND POLICE CHALLENGE TESTIMONY. COUNSEL REFUSED TO ADDRESS THE EVIDENCE TAMPERING OF THE D.E.A. LAB, AND THE D.E.A. AGENT. COUNSEL REFUSAL TO ALLOW FORENSIC INVESTIGATION BY PETITIONER HIRED EXPERT FOR THE TAMPERED EVIDENCE, COUNSEL KNOWING OF PERJURY BY EVERY GOVERNMENT TESTIFYING EMPLOYEE, KNOWING OF I.R.S. AGENT THREAT TO A DEFENSE WITNESS WAITING TO TESTIFY, KNOWING OF UNCONSTITUTIONAL RULING, KNOWING OF NO SEARCH FINDING OF FACT TRUTH, COUNSEL

REFUSING TO PRESENT MOTION CHALLENGEA6. ALLOWED THE CONSTITUTIONAL HEARING TO HAVE A [MITCHELL V U.S.] SHAM RESULT. THE U.S. JUDGE IN CONSTITUTIONAL EVIDENCE HEARING COULD FIND NO FAULT IN SEVEN DEFENSE WITNESSES OR FOR DEFENSE CHALLENGE PERJURY. YET RULED FOR ONLY GOVERNMENT. THE JUDGE STATED "SHE WAS EXPOSED TO PUBLIC VIEW. SPEECH. HEARING AND TOUCH AS IF SHE HAD BEEN STANDING OUTSIDE.". THE U.S ATTORNEY WROTE OF THE PETITIONER INSIDE HER KITCHEN "THEREFORE THE DOORWAY OF A PRIVATE HOME IS A PUBLIC PLACE FOR FOURTH AMENDMENT PURPOSES". (H). THE U.S ATTORNEY INVENTED A RESIDENCE ENTRY PERJURED TESTIMONY STORY FOR THE D.E.A.. THE U.S. ATTORNEY "ARGUMENT THE AGENTS SHOULD HAVE FIRST OBTAINED AN ARREST OR SEARCH WARRANT IS LEGALLY WITHOUT MERIT."

COUNSEL DID NOT FILE FOR PERJURY, EVIDENCE TAMPERING OR UNCONSTITUTIONAL RULINGS EVEN THOUGH THE PETITIONER FACED COUNSEL STATED LIFE IN PRISONA1A5A6A8. COUNSEL HAD NO PLAN FOR TRIALA6. KNEW FROM THE JANUARY 4 RULINGS AGAINST THE EVIDENCE UNTIL FEBRUARY 12 WHEN GUILT WAS REQUIRED. THERE WAS ONLY THE NEED TO MAKE A DEAL. THE GOVERNMENT VERITY GUILT CONTRACT WAS WRITTEN FEB 7 OR 8. COUNSEL REFUSED TO FILE CONDITIONAL PLEA GUILT CONTRACT RESERVING THE RIGHT TO CONSTITUTIONAL RIGHT VIOLATIONS. AND INSTEAD COUNSEL SIGNATURED PERJURY WITH U.S. ATTORNEY PERJURY THAT NO CONSTITUTIONAL VIOLATION OCCURREDA6A8. COUNSEL WITHHELD THE POORLY WRITTEN. VAGUE. NO PRISON SENTENCE STATED, GUILT CONTRACT 100 HOURS FROM THE PETITIONER. WHILE THE U.S. ATTORNEY WAS FINDING THE

EXCULPATORY EVIDENCE. COUNSEL PRESENTED THE CONTRACT FOR ONLY TEN MINUTESA5A6 PRIOR TO GUILT TIME. COUNSEL SAID HE HAD NO TRIAL DEFENSE PREPAREDA6 AND THE PETITIONER FACED 17 (P) YEARS TO LIFEA8.

REASON FOR GRANTING THE WRIT

CERTIORARI SHOULD BE GRANTED FOR MANY CONSTITUTIONAL VIOLATION REASONS:

A1.1 FIRST AMENDMENT STATES THE GOVERNMENT SHALL MAKE NO LAW PROHIBITING PETITIONING THE GOVERNMENT FOR A REDRESS OF GRIEVANCES. THE U.S. DISTRICT AND APPELLATE COURT, SELECTIVELY APPLYING THE CONTRACT, BLOCKS EVERY ATTEMPT TO UNDUE THE CONSTITUTIONAL WRONGS.

A1.2 FIRST AMENDMENT INDICATING A PUBLIC OFFICIAL U.S. ATTORNEY STATING FALSE AND MALICIOUS SPEECH IS LIBEL TO THE CITIZEN HE MALIGNS. A FALSE AND MISLEADINGLY

ADVERTISED AND WRITTEN GUILT CONTRACT. WITH NO LEGAL CONSIDERATION STATED FOR THE PETITIONER. UNDER CONDITIONS OF INDUCED FRAUD TO COERCE GUILT RECEIVES ZERO CONSTITUTIONAL PROTECTION.

A2. SECOND AMENDMENT STATING THE EXCEEDINGLY PRECIOUS RIGHT OF PEOPLE TO KEEP ARMS SHALL NOT BE INFRINGED. THE GOVERNMENT FALSELY CHARGED THAT A GUN INSIDE A RESIDENCE, TAKEN BY GOVERNMENT ARMED WARRANTLESS RESIDENCE NO KNOCK TRESPASS IS A CITIZEN VIOLATION OF TITLE 18 U.S.C. SECTIONS 922 (G)(3) AND 924(A). THE UNLAWFUL POSSESSION AFFECTING COMMERCE FIREARMS CHARGE WAS SIMPLY U.S. ATTORNEY'S RETALIATION FOR NOT OBTAINING A FIRST WEEK GUILT PLEA.

A4. FOURTH AMENDMENT STATING AN AMERICAN CITIZEN SHOULD EXPECT PRIVACY IN HER

RESIDENCE WITH THE RIGHT TO BE SECURE IN PERSON, HOUSES, PAPERS AND EFFECTS AGAINST UNREASONABLE SEARCHES AND SEIZURES SHALL NOT BE VIOLATED. LEGAL AUTHORITIES CONDUCTING THEMSELVES ACCORDING TO CONSTITUTIONAL LAW MUST OBTAIN A SEARCH WARRANT ISSUED WITH PROBABLE CAUSE, SUPPORTED BY OATH OR AFFIRMATION. AND PARTICULARLY DESCRIBING THE PLACE TO BE SEARCHED. AND THE PERSONS OR THINGS TO BE SEIZED. THE D.E.A.'S HELSON. WAS ASKED BY ESCONDIDO POLICEMAN MANKIN. TO OBTAIN WARRANTS PRIOR TO DRIVING TO THE PETITIONER'S.

A4.1 FORTH AMENDMENT PRIVACY WAS VIOLATED WHEN A GUN DRAWN PEEPING TOM D.E.A. DAVIS SEARCHED IN THE DARK OF NIGHT THROUGH THE PETITIONER'S KITCHEN WINDOW. THE WARRANTLESS INVASION OBSERVED A CITIZEN COOKING THE EVENING MEAL IN HER

RESIDENCE. WITHOUT GUNS. DRUGS OR OTHER PERSONS PRESENT. THIS INVASION OF CURTILAGE WAS THEN FOLLOWED BY DAVIS' GUN DRAWN NO KNOCK ENTRY INTO THE RESIDENCE UTILITY ROOM, OBSERVED BY THREE TESTIFYING EYE WITNESSES.

A4.2 FOURTH AMENDMENT SEARCH THE D.E.A. TEAM WITHOUT ANY WARRANT, NO KNOCK TRESPASSED THE RESIDENCE UTILITY ROOM, SEARCHED THE UTILITY ROOM. SEARCHED THE RESIDENCE STORED VEHICLE INCLUDING THE CLOSED TRUNK WITHOUT CITIZEN KNOWLEDGE.

A4.3 THE D.E.A. UNDER POLICE AUTHORITY THREAT BODY SEARCHED THE PETITIONER IN HER RESIDENCE WITHOUT WARRANT AND CONFISCATED PETITIONER PROPERTY.

A4.4 THE D.E.A. AFTER NO KNOCK ENTRY WITHOUT WARRANT AND WITHOUT MIRANDA NOTICE SEARCHED THE ENTIRE RESIDENCE.

A4.5 FORTH AMENDMENT SEIZURE HAD THE

D.E.A. SEIZE DOCUMENTS SUCH AS MARRIAGE AND BUSINESS LICENSE AND OTHER PAPERS AND EFFECTS WITHOUT WARRANT. THE D.E.A. SEIZED THE VEHICLE STORED INSIDE THE RESIDENCE WITHOUT CAUSE OR WARRANT.

A4.6 FORTH AMENDMENT WARRANTLESS ARREST

AFTER TRESPASS THE D.E.A. DID ARREST DETAIN THE PETITIONER IN HER KITCHEN. AND ORDER THE PETITIONER TO HER UTILITY ROOM. WARRANTLESS ARREST IN A NON PUBLIC PLACE IS PRESUMPTIVELY [PAYTON V NEW YORK] UNREASONABLE. THE PAYTON COURT HELD THAT PROBABLE CAUSE DOES NOT JUSTIFY A WARRANTLESS ENTRY INTO THE SUSPECT'S DWELLING TO ARREST HIM. THE OFFENSE FOR WHICH THE TRESPASS OCCURRED THOUGHT TO INVOLVE DRUGS, WAS NOT [U.S. V REED] AN EXIGENT CIRCUMSTANCE.

A4.7 PRIVACY WAS INVADED BY THE D.E.A. WITHOUT WARRANTS OR MIRANDA NOTICE, ONE

HOUR INTERROGATION OF THE PETITIONER WITHIN HER RESIDENCE. THE INVOLUNTARY CONFESSION OF COERCED SIGNED [MIRANDA V ARIZONA. EDWARDS V U.S.] DOCUMENTS AND COERCED TESTIMONY ARE A5 NOTED.

A5.1 FIFTH AMENDMENT THAT NO PERSON SHALL BE HELD TO ANSWER FOR AN INFAMOUS CRIME, UNLESS ON A PRESENTMENT OF A GRAND JURY. THE U.S. ATTORNEY PRESENTING CONSTITUTIONALLY ILLEGAL CONFESSION AND EVIDENCE. TAMPERED EVIDENCE. PERJURED [MASSIMO V U.S.. PARKER V N.C.] TESTIMONY OR WITHHOLDING EXCULPATORY EVIDENCE TO THE GRAND JURY AND IN DUE PROCESS HAS THAT PRESENTMENT OF TAKEN ILLEGALLY.

A5.1.1 REGARDING THE PETITIONER BEING A PROVEN UNLAWFUL USER OF A CONTROLLED SUBSTANCE THIS WAS U.S. ATTORNEY NO GUILT PLEA RETALIATION. THE CHARGE OF TITLE 21

U.S.C. SECTION 802 HAD U.S. ATTORNEY PROOF OF ZERO DRUGS IN THE PETITIONER BY A GOVERNMENT TESTING CONDUCTED 9/17/90. THE GOVERNMENT RETAINS THE EXCULPATORY DRUG EVIDENCE HOWEVER THE PRIVATE MEDICAL TESTS TAKEN THE SAME DAY SUBSTANTIATE THE GRAND JURY FALSE DRUG USER CHARGE.

A5.1.2 REGARDING THE PETITIONER BEING A COMMERCE GUN DEALER, THE UNLOADED GUN SEIZURE IN A NO KNOCK WARRANTLESS RESIDENCE ENTRY CHARGE, IS TITLE 18. UNITED STATES CODE. SECTIONS 922(G)(3) AND 924(A). THE CHARGE REQUIRES A PREREQUISITE PROOF OF THE SECTION 802 CHARGE. THEREFORE BOTH THE GUN AND DRUG USER CHARGE FAIL 9/26/90 REQUIREMENTS.

A5.2.1 OBSTRUCTION OF DUE PROCESS JUSTICE IS INDICATED BY THE COURT EVIDENCE CONSENT TO SEARCH DOCUMENT ALTERED AFTER ARREST BY THE D.E.A. TO

INCLUDE AN 8:45 PM TIME. THE "8:45 PM" WAS ADDED TO ALLOW D.E.A. TESTIMONY LINK TO THE 8:50 PM TIME OF THE MIRANDA NOTICE ON THE 10/4/90 POLICE REPORT.

A5.2.2 OBSTRUCTION OF DUE PROCESS THROUGH EVIDENCE TAMPERING WAS PETITIONER TESTIMONY CHALLENGED THAT THE D.E.A. CONSENT TO SEARCH FORM WAS NOT FULLY FILLED WHEN THE COMPLETED SEARCH SIGNATURE WAS DEMANDED.

A5.3.1 FIFTH AMENDMENT REQUIRES NO PERSON SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF. THE MIRANDA NOTICE WAS STATED ONE HOUR AFTER THE NO KNOCK ENTRY AS THE PETITIONER WAS LEAD TO THE POLICE CAR. STATEMENTS MADE BY THE PETITIONER BEFORE SHE WAS MIRANDIZED MUST BE SUPPRESSED.

A5.3.2 INVOLUNTARY CONFESSION BY PETITIONER WITHOUT MIRANDA YIELDING TO

DOMINATION REQUIRED SIGNATURING CONSENT TO SEARCH DOCUMENT AFTER THE NO WARRANT SEARCH WAS COMPLETE. INDUCED GOVERNMENT FRAUD TO USURP THE CONSTITUTIONAL NEED FOR PROBABLE CAUSE AND WARRANT HAD THE PURPOSE TO PRODUCE ILLEGAL EVIDENCE AGAINST THE PETITIONER.

A5.3.3 INVOLUNTARY CONFESSION INTERROGATION INITIATED BY GOVERNMENT AFTER THE PETITIONER WAS MIRANDIZED. ALSO REJECTED THE PETITIONER'S REQUEST FOR TELEPHONE CALL AND FOR ATTORNEY. THE D.E.A. STATING "NO ATTORNEY IS GOING TO GET YOU OUT OF THIS" IS THE GOVERNMENT'S BIAS IN VOIDING CONSTITUTIONAL RIGHTS. THE SECOND INTERROGATION OVER A SPAN OF SIX ADDITIONAL HOURS AT A SECRET DETENTION SITE VIOLATE THE DECISION THAT THE CONFESSION [EDWARDS V U.S.] MUST BE INITIATED BY THE PETITIONER.

A5.3.4 INVOLUNTARY CONFESSION BY PETITIONER YIELDING TO DOMINATION REQUIRED SIGNATURING CONSENT TO SEARCH BANK RECORDS AND PROPERTY. THIS WAS FOR THE PURPOSE TO PRODUCE ILLEGAL EVIDENCE.

A5.3.5 INVOLUNTARY CONFESSION VIA GOVERNMENT WRITTEN VOID FOR VAGUENESS LANGUAGE PETITIONER GUILT CONTRACT [LEE V U.S., U.S. V NATIONAL DAIRY. CA 6068] HAD GOVERNMENT IN DUE PROCESS REJECT [U.S. V ESTRADA] ALL DEFENSE EVIDENCE AND TESTIMONY. RULE UNCONSTITUTIONALLY. AND WITH CONSPIRACY OF COUNSEL HOLD THE GUILT CONTRACT FOR 100 HOURS UNTIL GUILT COURT [GIDEON V WAINWRIGHT, WALDEN V U.S., HENRY V MISSISSIPPI, WILLIAMS V ESTELLE, CA BAR 5-310] . PRESENT THE FRAUD GUILT CONTRACT FOR TEN MINUTES [SPECTH V PATTERSON] WITH A VERBAL 6 YEAR CONTRACT PROMISE AND A LIFE IN PRISON ALTERNATIVE.

A5.3.5.1 INVOLUNTARY CONFESSION VIA GUILT CONTRACT FALSELY STATING THE DOCUMENT SETS FORTH THE FULL AND COMPLETE PLEA AGREEMENT BETWEEN PARTIES. THE GOVERNMENT CONTINUED BUSINESS AS IF THIS DOCUMENT WAS ONLY FOR THE PURPOSE OF THE COURT OBTAINING THE GUILT WORD AND RULE 11 CHOREOGRAPHED APPEAL BLOCK.

A5.3.5.1.1 GUILT CONTRACT ITEM #1 DUPED CHARGE COUNTS STATES GOVERNMENT WILL RETURN TO THE GRAND JURY 21 U.S.C. 841(A)1(1) AND 846 POSSESSION OF 1.3 KILOGRAMS OF METHAMPHETAMINE CHARGES OF ONE COUNT. THE GRAND JURY COUNT ONE WAS ATTEMPT AND CONSPIRACY TITLE 21 U.S.C. SECTION 846. GRAND JURY COUNT TWO WAS POSSESSION WITH INTENT TO DISTRIBUTE 1.3 KILOGRAMS OF METHAMPHETAMINE TITLE 21 U.S.C. 841(A)(1) AND TITLE 18 U.S.C. SECTION 2. THE GOVERNMENT AND COUNSEL TO

INDUCE GUILT TRICKED THE PETITIONER WITH NO TIME FOR VERITY, THAT ONE GUILT CONTRACT COUNT IS TWO GRAND JURY COUNTS. THE GRAND JURY COUNT THREE TITLE 21 U.S.C.802 DRUG USER AND TITLE 18 U.S.C. 922(G)(3) AND 924(A) WAS TO BE DROPPED. THE GUILT CONTRACT INCLUDED EVERY CHARGE FROM ARRAIGNMENT WITHOUT RELIEF.

A5.3.5.1.2 GUILT CONTRACT ITEM #2 NO DEFINED SENTENCE STATES THE SENTENCE BETWEEN 5 YEARS AND 40 YEARS, WITH 4 YEARS SUPERVISED PROBATION. THE VIOLATION OF ANY OF THE PROBATION REQUIRES SERVING IMPRISONMENT FOR THE 4 YEARS PLUS FOR WHATEVER CHARGE SENTENCE HAS ALREADY BEEN SERVED. THE PETITIONER WAS UNDER THE PRESSURE OF GUILT COURT WITH TEN TOTAL MINUTES TO COMPREHEND THE ENTIRE GUILT CONTRACT. THE DOCUMENT IMPLIED FROM 5 TO 40 YEARS WITH SUPERVISED RELEASE

VIOLATION CREATING A POTENTIAL TOTAL FROM 14 TO 85 YEARS. COUNSEL HAD QUICKLY TOLD THE PETITIONER THE SENTENCE WAS 6 YEARS, WITH THE ALTERNATIVE 17 YEARS TO [COOK V U.S.] LIFE FOR FAILING TO SIGNATURE.

A5.3.5.1.3 GUILT CONTRACT ITEM #3

HAS THE PETITIONER YIELD HER RIGHT TO A DUE PROCESS PROTECTED TRIAL IN EXCHANGE FOR A 5 TO 85 YEAR SENTENCE.

A5.3.5.1.4 GUILT CONTRACT ITEM #4 NO COMPREHENSION CONTRACT RIDER REQUIRED PETITIONER PERJURY (A)"THAT SHE HAS HAD A FULL OPPORTUNITY TO DISCUSS ALL THE FACTS AND CIRCUMSTANCES OF THIS CASE WITH HER LAWYER AND HAS A CLEAR UNDERSTANDING OF BOTH THE CHARGE AGAINST HER AND THE CONSEQUENCES OF HER PLEA." THE PUBLIC WITNESSES AND THE U.S. JUDGE KNEW THE CONTRACT WAS FIRST TIME BROUGHT TO THE PETITIONER AS SHE SAT IN THE PRISONER BOX

OF THE GUILT COURT. THE PETITIONER APPEAL DENIED MOTION TO REVIEW THE ATTORNEY JAIL VISIT LOG WOULD HAVE SHOWN NO COUNSEL VISIT AND NO COUNSEL ABILITY TO TELEPHONE IN. ITEM #4(C) REQUIRES COERCED THOUGHT [McMANN V RICHARDSON. TOLLETT V U.S.] FOR THE THREAT OF 17 YEARS TO COUNSEL OVER STATED [CAL CODE #14] LIFE WITH COUNSEL, INFLUENCED THE SIGNING IN GUILT COURT.

A5.3.5.1.4 GUILT CONTRACT ITEM #4(D) REQUIRES A PLEA OF UNCONDITIONAL IN TRUTH AND IN FACT GUILT EVEN THOUGH THE JUDGE. U.S ATTORNEY AND COUNSEL PERJURY SIGNATURING THE CONTRACT KNEW OF THE MANY STATED GOVERNMENT ARREST AND DUE PROCESS CONSTITUTIONAL VIOLATIONS.

A5.3.5.1.5 GUILT CONTRACT ITEM #5 FULL DEFENSE COUNSEL VOLUNTARILY REJECTED REQUIRED. "COUNSEL FOR THE DEFENDANT REPRESENTS THAT THE DEFENDANT DOES NOT

POSSES A MERITORIOUS DEFENSE TO THE CHARGES."

THE CONSTITUTION ITSELF, THE EVIDENCE WITHHELD BY COUNSEL AND THE U.S. ATTORNEY, THE MAILGRAMS [U.S. V PISCOTTA] IN APPEAL EVIDENCE NOTIFYING COUNSEL OF THE DEFENSE OPPORTUNITIES, THE EVIDENCE ON AND OFF RECORD REQUIRED COUNSEL ITEM #5 SIGNATURE IS PERJURED.

A5.3.5.1.6 GUILT CONTRACT ITEM #6

STATES NO SENTENCE IS IMPLIED IN THE GUILT CONTRACT. "DEFENDANT UNDERSTANDS THE COURT WILL NOT BE ABLE TO DETERMINE THE GUIDELINES SENTENCE IN THIS CASE UNTIL AFTER A PRESENTENCER REPORT HAS BEEN PREPARED BY THE PROBATION DEPARTMENT AND AFTER BOTH DEFENDANT'S COUNSEL AND THE GOVERNMENT HAVE HAD AN OPPORTUNITY TO CHALLENGE THE FACTS IN THE REPORT. DEFENDANT FURTHER UNDERSTANDS THAT UNDER

SOME CIRCUMSTANCES, THE COURT MAY IMPOSE A SENTENCE MORE SEVERE OR LESS SEVERE THAN THAT CALLED FOR IN THE GUIDELINES." THE U.S. ATTORNEY, COUNSEL AND THE U.S. JUDGE DUPED THE PETITIONER TO A CONTRACT WITHOUT ANY DEFINED SENTENCE TO SIMPLY OBTAIN THE PETITIONER WORD "GUILTY".

A5.3.5.1.7 GUILT CONTRACT ITEM #7

DEFENDANT HAS NO RIGHT TO WITHDRAW HER PLEA BECAUSE THE SENTENCE IMPOSED IS MORE SEVERE THAN ANTICIPATED. THE CONTRACT WITHOUT STATED SENTENCE IS BINDING ONLY ON THE PETITIONER.

A5.3.5.1.8 GUILT CONTRACT ITEM #8

THE GOVERNMENT RECOMMENDS THE SAME CHARGES AS ARRAIGNMENT DAY. BASE OFFENSE LEVEL INVOLVING 1.3 KILOGRAMS TO 100% PURITY IS LEVEL 34. THE SENTENCE TO COME ONLY FROM POST GUILT. THE PETITIONER IN COURT HAD NO WAY TO DETERMINE WHAT LEVEL

34 MEANT. "IF" THE DEFENDANT CONFESSES IN POST GUILT AND IS CRIMINAL CATEGORY ONE, OR WHATEVER CATEGORY, THE GOVERNMENT AGREES TO THE LOW END OF THE LEVEL 32, 121 MONTHS. "IF" BEFORE SENTENCING THE DEFENDANT GIVES UNDER OATH INFORMATION REGARDING HERSELF AND HER CODEFENDANTS AND IN TRIAL, LEVEL 30 OR 97 MONTHS WOULD BE RECOMMENDED AFTER THAT SERVICE WAS RENDERED. THIS INVOLUNTARY INDUCEMENT ALSO ASKS FOR, YIELDING OF POST CONTRACT SIGNING FIFTH AMENDMENT RIGHT SELF INCRIMINATION RIGHT WITHOUT PERMISSION OF THE PETITIONER. THE PETITIONER DID NOT KNOW AT THE TIME OF SIGNING THE GUILT CONTRACT, THAT HER COUNSEL WOULD NOT ATTEND THE TWO POST GUILT CONTRACT GOVERNMENT INTERROGATION AND CONFESSION SIGNING [MINNICK V U.S., TOWNSEND V BURKE] BY THE D.E.A'S AGENT IN CHARGE.

AND THE COURT'S PRESENTENCER.

A5.3.5.1.9 GUILT CONTRACT ITEM #9 "IF" THE SENTENCE 2 1/2 MONTHS AFTER CONTRACT SIGNING IS 97 MONTHS OR LESS. THE SENTENCE WILL NOT BE APPEALED.

A5.3.5.1.10 GUILT CONTRACT ITEM #10 "IF" BETWEEN THE SIGNING OF THE PLEA AND SENTENCING COOPERATION BEYOND ITEM #8 IS PROVIDED. THE GOVERNMENT WILL CONSIDER DEPARTURE BELOW THE MANDATORY MINIMUM.

A5.3.5.1.11 GUILT CONTRACT ITEM #11 STEALS WITHOUT PRIOR NOTICE. THE FIFTH AMENDMENT PROTECTION AFTER CONTRACT SIGNATURE AND ITEM #10. IT IS UNDERSTOOD THAT DEFENDANT WILL, AS PART OF THIS AGREEMENT, BE REQUIRED TO DISCLOSE ALL INFORMATION WITH RESPECT TO HER ACTIVITIES AND THE ACTIVITIES OF OTHERS RELATIVE TO NARCOTICS VIOLATIONS. DEFENDANT HAD TO BE AVAILABLE FOR ANY

TRIAL OR GRAND JURY WITH ALL TESTIMONY SUBJECT TO PETITIONER "ONLY" IMPEACHMENT AND PROSECUTION BY STATE AGENCIES.

A5.3.5.1.12 GUILT CONTRACT ITEM #12 ALLOWS BAIL FREEDOM FOR TIME THE PETITIONER AIDS IN GOVERNMENT ACTIVITY.

A5.3.5.1.13 GUILT CONTRACT ITEM #13 "BY SIGNING THIS AGREEMENT, DEFENDANT REPRESENTS THAT SHE IS SATISFIED WITH THE REPRESENTATION SHE HAS RECEIVED FROM HER ATTORNEY." GOVERNMENT'S CONTRACT CANNOT SUPERSEDE THE CLIENT PRIVATE SERVICE CONTRACT WITH TWO ATTORNEYS.

A5.3.5.1.14 GUILT CONTRACT ITEM #14 THE U.S COURT BREACHES AND VOIDS ALL PRIOR GOVERNMENT SENTENCING INFORMATION IN LEGAL CONTRACT ITEMS 2.6.7.8.10.11.12 AND CAN IMPOSE 40 YEARS WITHOUT THE DEFENDANT WITHDRAWING HER PLEA.

A5.3.5.1.15 GUILT CONTRACT ITEM #15

REQUIRES COUNSEL SIGNATURE PERJURY.

"BY SIGNING THIS AGREEMENT, COUNSEL FOR THE DEFENDANT REPRESENTS THAT, IN HIS OPINION. THE DEFENDANT'S CONSTITUTIONAL RIGHTS HAVE NOT BEEN VIOLATED AND HEREBY WITHDRAWS ALL PREVIOUSLY FILED MOTIONS". THE RUNAWAY FRANK WHO WOULD NOT PRESENT ANY DEFENSE. AND THE TWO FACED ROBINSON WHO PARTIALLY PRESENTED GOVERNMENT CONSTITUTIONAL VIOLATIONS. IS COURT RECORD ERASED BY PERJURED SIGNATURE OF AN ATTORNEY WHO BY MINIMAL PROFESSIONAL STANDARDS SHOULD FILE A CONDITIONAL GUILT CONTRACT. THE CONTRACT RIDER TO BLOCK PETITIONER APPEAL. HAVING THE COUNSEL SIGNATURED FILED MOTIONS ON RECORD. AND THEN COUNSEL SIGNATURE GUILT CONTRACT IS PERJURED OBSTRUCTION OF JUSTICE.

A5.3.5.1.16 GUILT CONTRACT ITEM #16 ALLOWS FULL PROSECUTION OF THE PETITIONER

IF SHE FAILS ANY PORTION OF ITEMS #1 THROUGH #15.

A5.3.5.1.17 GUILT CONTRACT ITEM #17

ALLOWS FULL PROSECUTION OF THE PETITIONER WITHOUT FIFTH AMENDMENT RIGHTS IN POST GUILT INTERROGATION TO BE PROSECUTED BY FEDERAL, STATE AND LOCAL AGENCIES.

THE ORIGINAL DISTRICT COURT OPENING BRIEF APPEAL DOCUMENT BY PSYCHIATRIST DR. JOSEPH BAILEY INDICATES, "IN MY MEDICAL OPINION, IT IS UNLIKELY THAT SHE WOULD HAVE UNDERSTOOD ALL OF THE RAMIFICATIONS OF THE AGREEMENT IN A TEN MINUTE TIME PERIOD." "IN MY MEDICAL OPINION, ASSUMING THE FOUR GROUNDS ARE FACTUAL, IT IS REASONABLY MEDICALLY PROBABLE, THAT HER FRAME OF MIND AT THE TIME OF SIGNING, WAS ONE OF CONFUSION, HOPELESSNESS, FUTILITY, FEAR, ETC., AND SHE THEREFORE, AGREED TO SIGN IT."

A5.3.6 INVOLUNTARY CONFESSION THAT THE AUTOMOBILE TAKEN BY ILLEGAL SEARCH AND SEIZURE. WAS NOW BY GUILT CONTRACT REQUIRED FOR PETITIONER RELEASE AS SENTENCE DETERMINATION CONDITION.

A5.3.7.1 INVOLUNTARY CONFESSION REQUIRED BY THE GUILT CONTRACT WITHOUT COUNSEL PRESENT IN POST GUILT. HAD THE D.E.A. WRITE A CONFESSION, THE PETITIONER WAS REQUIRED TO SIGNATURE. THE INVOLUNTARY CONFESSION FOR FUTURE PROSECUTION WAS PHOTO COPIED AND GIVEN TO THE PUBLIC'S EUGENE IREDALE. COUNSEL ROBINSON NOT ATTENDING PETITIONER'S COURT ORDERED CONFESSION. SET UP HIS CLIENT FOR MORE PROSECUTION. AND AUTHORIZED U.S ATTORNEY TO MAKE PUBLIC THE PRIVATE DOCUMENT.

A5.3.7.2 INVOLUNTARY CONFESSION WITHOUT COUNSEL PRESENT IN POST GUILT REQUIRED BY THE GUILT CONTRACT HAD THE COURT'S

INTERROGATOR BADGER THE PETITIONER THAT THE GUILT CONTRACT WAS MEANINGLESS AND SHE WOULD RECEIVE 19 YEARS IN PRISON.

A5.3.7.3 FIFTH AMENDMENT INVOLUNTARY CONFESSION INDUCEMENT VIOLATING NO PERSON SHALL BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY APPLIES TO DOUBLE JEOPARDY SENTENCE WITHOUT TRIAL. THE COURT'S SENTENCE DETERMINING OFFICER UNDERSTANDING THERE HAD BEEN NO TRAFFIC VIOLATION PROBATION VIOLATION STATEMENT IN THE PETITIONER'S GUILT CONTRACT, DID CALCULATE A U.S JUDGE ACCEPTED SENTENCE. THE COURT'S SENTENCE HAD 810 DAYS FOR BEING ON PROBATION 10/28/88 DRIVING UNDER THE INFLUENCE CASE THAT HAD BEEN MONETARY FINE AND COMMUNITY SERVICE FULL PAID IN 1988. THE D.U.I. CHARGE IF REQUIRING INCARCERATION WOULD HAVE HAD A MAXIMUM 2 DAY JAILING. THE OFFICIAL RECORD 808 DAYS

SENTENCE REQUIRING DOWNWARD DEPARTURE IS DOUBLE SENTENCING JEOPARDY.

A5.3.7.4 THE GUN CHARGE WAS DELETED FROM THE GUILT CONTRACT YET INCLUDED FOR SENTENCE AND FOR PRISON TIME HARDSHIP BY THE COURT. THE REQUEST FOR CAMP AT SENTENCING WAS DENIED DUE TO THE GUN CHARGE BEING CONTRACT BREACH RETAINED.

A5.3.8.1 FIFTH AMENDMENT DUE PROCESS OF LAW DOES NOT ALLOW D.E.A. HELSON, D.E.A. DELANEY, I.R.S. CHAVEZ, COUNSEL ROBINSON AND U.S. ATTORNEY KRAEMER TO PERJURE.

A6.1 SIXTH AMENDMENT STATING IN ALL PROSECUTIONS THE ACCUSED SHALL ENJOY BEING INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION.

A6.1.1 THE U.S. ATTORNEY WITHHOLDING THE EXCULPATORY [BRADY V MARYLAND] EVIDENCE OF GOVERNMENT WARRANTLESS RESIDENCE

TRESPASS, WARRANTLESS ARREST/SEARCH AND INTERROGATION FROM THE GRAND JURY, WITHHOLDING EXCULPATORY EVIDENCE OF THE PASSED DRUG TESTS, THE GUN WAS LEGAL IN THE RESIDENCE, ALL EVIDENCE FROM THE RESIDENCE WAS TAKEN WITHOUT WARRANT, THE INTERROGATION SPANNED SEVEN HOURS WITHOUT COUNSEL. THE COURT [PYLE V KANSAS] ORDERED EXCULPATORY D.E.A. TELEPHONE BILL AND POLICE ARREST TIME LOG, AND KNOWLEDGE OF THE D.E.A. DRUG LAB EVIDENCE TAMPERING, AND KNOWLEDGE OF TAMPERING WITH SEARCH 5.2 CONSENT FORM. OBSTRUCTED CASE EVIDENCE VERITY.

A6.2 SIXTH AMENDMENT STATING IN ALL PROSECUTIONS THE ACCUSED SHALL ENJOY ASSISTANCE OF COUNSEL FOR HER DEFENSE 2255 PROVIDES A FORUM FOR AN EVIDENTIARY HEARING TO CREATE A RECORD ON THE ISSUE OF INEFFECTIVE [U.S. V MAGUIRE] COUNSEL

NOT COMMUNICATING WITH THE CLIENT.

A6.2.1 THE FAILURE OF COUNSEL TO ACT IN THE FULLEST [CHANDLER V FREYTAG, WHITE V MARYLAND, JOHNSON V ZERBST, POWELL V ALABAMA, JOHNS V PERINI, PEOPLE V McDOWELL, WATSON V U.S., EDWARDS V U.S., GIDEON V WAINWRIGHT, RODRIGUEZ V STATE, MATHEWS V U.S.] MEASURE AND REQUIRE THE D.E.A. ALTERED A5.2 CONSENT TO SEARCH DOCUMENT TO BE [WASHINGTON V STRICKLAND] EXAMINED BY AN EXPERT WITNESS FOR THE D.E.A. ADDED "8:45 PM" AND ALSO FOR THE UNFILLED IN INFORMATION WRITING SURFACE HARDNESS TESTIMONY.

A6.2.2 COUNSEL PERJURY [U.S. V BUCKLEY] INCLUDES COUNSEL ROBINSON AND FRANK LIED TO THE COURT BY SIGNATURE THAT FRANK WAS SIMPLY BEING TRANSFERRED AS AN ATTORNEY OF RECORD.S.J.S.1.15 GUILT CONTRACT ITEM #15. COUNSEL SIGNATURING

CONSTITUTIONAL VIOLATIONS FOR EVIDENTIARY HEARING BRIEF, THEN PERJURED SIGNATURE [BAILEY V U.S., U.S. V HAYWOOD] NO VIOLATIONS EVER OCCURRED.

A6.2.3 COUNSEL AS JUDAS PROSECUTOR [RICHARDSON V U.S.] INCLUDES FORMER U.S. ATTORNEY FRANK ASKING THE PETITIONER TO PLEAD GUILT IN THE FIRST WEEK KNOWING THE GOVERNMENT HAD ONLY ILLEGALLY [MacKENNA V ELLIS] OBTAINED EVIDENCE AGAINST THE PETITIONER, ALLOWED UNCHALLENGED [18 U.S.C. 1510 CRIMINAL OBSTRUCTION OF INVESTIGATION 5 YEAR & $250,000] RETALIATION OF DRUG USER 5.1.1 AND COMMERCE GUN 5.1.2 FALSE [SNEAD V SMITH, HENSLEY V U.S., U.S.C TITLE 18, 241, 242] CHARGES, LIED REGARDING CIVIL RIGHTS, TRIED TO ENTRAP THE PETITIONER TO JAIL, REFUSED ANY CASE [BRUEBAKER V DICKSON] DEFENSE, COUNSEL [POWELL V ALABAMA, CA

BAR 2-30, CA CODE 6068, A.B.A. 700] QUIT WITHOUT NOTICE . COUNSEL FRANK LEFT THE PETITIONER IN GREAT LEGAL JEOPARDY AND RETAINED HER $15.000 TO VOID FUNDS REQUIRED FOR THE NEXT FULL FEE ATTORNEY. COUNSEL ROBINSON FAILED TO CHALLENGE THE DRUG USER AND COMMERCIAL GUN CHARGE [CANNON 15. U.S. V RUSMISEL. U.S. V CALLAHAN, MACKEY V U.S.] OF A U.S. ATTORNEY [BLACKLEDGE V PERRY] VIOLATING DUE PROCESS BY CHARGING MORE SEVERELY. COUNSEL AFTER READING THE PETITIONER 9/21/90 NOTARIZED ARREST REPORT AND THE GOVERNMENT 10/4/90 ARREST REPORT. PLUS THE DEFENSE INVESTIGATIVE REPORT KNEW THE GOVERNMENT'S CASE HAD [U.S. V COCKRELL. U.S. V THUNDERSHIELD] LITTLE CONSTITUTIONAL MERIT. COUNSEL OMITTED IN HIS CONSTITUTIONAL EVIDENCE HEARING BRIEF SUPREME COURT RULINGS THAT WOULD HAVE

ASSISTED THE PETITIONER'S LEGAL STANDING. THE PETITIONER INSISTED THE COUNSEL DELIBERATELY OMITTED CASE REFERENCE PROVIDED BY PETITIONER SUCH AS ANDERSON, BEVILACQUA, BROWN, CLEWIS, COLLICUT, CULOMBE, DUNAWAY, EDWARDS, FORDE, GOULD, HUFMAN, PAYTON, REED, ROGERS, SCHNECKLOTH, TAYLOR, TOWNSEND, TWOMEY, BE PLACED IN THE COURTS RECORDS. COUNSEL LACK OF FILING MOTIONS COMPROMISED THE PETITIONER'S RIGHTS AT ARREST, FOR STOLEN PROPERTY, FOR FALSE AND TAMPERED EVIDENCE, FOR PROSECUTOR [STATE V BRAZILLE] AND GOVERNMENT PERJURED [SELLERS V U.S., U.S. V REED, 7 AM JUR, 205] TESTIMONY, FOR WITHHOLDING EXCULPATORY EVIDENCE UNTIL GUILT CONTRACT, FOR THE JUDGE'S RULINGS, AND MISLEAD THE CLIENT AS TO CASE MERIT. COUNSEL, GOVERNMENT AND THE JUDGE

CONSPIRED IN THE ILLEGAL CONTRACT. COUNSEL ALLOWING HIS CLIENT'S FIFTH AMENDMENT RIGHT TO BE CONTRACT INVOLUNTARILY TAKEN. COUNSEL ALLOWING THE GUILT A5.3.6 AND A5.3.7 CONTRACT TO INTERROGATE HIS CLIENT AND TO FORCE SIGNATURING OF[MINNICK V U.S., SPANO V N.Y.] CONFESSION ON TWO OCCASIONS WITHOUT COUNSEL PRESENT.

THE CONTRACT POST GUILT INTERROGATION TO BE USED FOR ADDITIONAL PROSECUTION. TRICKED CLIENT TO CONTRACT WITHOUT STATED SENTENCE. COUNSEL DID NOT [FED SEN 6B1.1(A) REQUIRE THE CONTRACT TO BE READ IN OPEN COURT. COUNSEL ACTING BEYOND HIS SCOPE AND GUILTY OF CLIENT FRAUD FOR ALLOWING A COPY OF THE PETITIONER SIGNATURED D.E.A. POST GUILT CONFESSION TO [7 AM JUR. 213-215, CAL CODE 6068] IREDALE AND ALLOWING ADVERSARIAL COUNSEL

IREDALE TO INTERROGATE THE PETITIONER, COUNSEL SUBPOENA OF PETITIONER TO COURT IN POST SENTENCE STATUS WITH THE STATED INTENT TO TESTIFY AS COUNSEL OF RECORD AGAINST THE PETITIONER WREAKS LOWER THAN PRE-DILUVIAN ERA SILT.

COUNSEL REFUSAL TO PROVIDE COURT MOTION THERE WAS NO NEED FOR POST GUILT INTERROGATION IF THE SENTENCE WAS TRULY STATED IN THE GOVERNMENT GUILT CONTRACT.

A6.3 SIXTH AMENDMENT STATING IN ALL PROSECUTIONS THE ACCUSED SHALL ENJOY BEING CONFRONTED WITH AND ALLOWED TO EXAMINE WITNESSES AGAINST HIM. THE ACCUSED IS PROTECTED BY AN ABILITY TO SHOW THE ACCUSER IS A LIAR, IS MISTAKEN. IS TESTIFYING IN SPITE. OR IS OTHERWISE UNWORTHY OF BEING BELIEVED. COUNSEL FAILING TO CHARGE PERJURY OR TO QUESTION GOVERNMENT WITNESSES FOR THEIR PERJURY

FAILED BEING THE U.S. ATTORNEY'S LEGAL ADVERSARY. THE PRIME WITNESS AGAINST BEING THE D.E.A. HELSON WITH PROVEN PERJURY ON THE RECORD, BUT HAVING MORE PERJURY OR CONSTITUTIONAL VIOLATIONS TO PROVE FAILED A FAIR TRIAL DUE PROCESS. THE SUBORDINATE D.E.A. AGENT PERJURED FOR THE RECORD. COULD HAVE BEEN FURTHER EXAMINED TO PROVE MORE PERJURY. THE I.R.S. AGENT OF THE D.E.A. TEAM BEING PERJURED FOR THE RECORD COULD HAVE BEEN FURTHER QUESTIONED ON DEFENSE WITNESS [18 U.S.C. 1503] INTIMIDATION. COUNSEL FAILING TO DISCREDIT THE PERJURED ACCUSERS VIOLATES LEGAL DEFENSE. THE U.S. ATTORNEY PERJURY PETITIONER BANK ACCOUNT FUNDS, NOT ADDED TO SINCE AGE 13. BEING DRUG MONEY. AND LOADING GUNS FOR THE RECORD SHOULD HAVE BEEN CHALLENGED AND STRICKEN FROM THE RECORD. THE COURT

CONSTITUTIONAL EVIDENCE 10/4/90 POLICE REPORT WITH MANY PERJURED ITEMS WAS COUNSEL UNCHALLENGED.

A6.4 THE SIXTH AMENDMENT STATING IN ALL PROSECUTIONS THE ACCUSED SHALL ENJOY HAVING A COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR. COUNSEL FAILURE TO CALL THE SUBPOENAED ESCONDIDO POLICEMAN TO DISCREDIT BOTH D.E.A. AGENT HELSON AND D.E.A. AGENT DELANEY. FAILURE TO REQUIRE TESTIMONY BY THE D.E.A. TAMPERING LABORATORY, FAILURE TO ALLOW INVESTIGATION OF A CLIENT HIRED MEDICAL DOCTOR. FAILURE TO ALLOW A DOCTOR OF CHEMISTRY TO FORENSICALLY INVESTIGATE PROOF OF GOVERNMENT PERJURY AND EVIDENCE TAMPERING INCLUDING THE SENTENCE DETERMINING STRENGTH OF DRUGS ALLOWS GOVERNMENT CRIMINAL ACT PARDON.

A8. EIGHTH AMENDMENT STATES EXCESSIVE BAIL NOR CRUEL OR UNUSUAL PUNISHMENTS SHALL BE INFLICTED.

A8.1 THE CRUEL PUNISHMENT OF HAVING ALL RIGHTS TAKEN BY GOVERNMENT AT RESIDENCE ARMED ENTRY AND ALL RIGHTS TAKEN BY THE U.S. COURT DURING DUE PROCESS WITHOUT RECORDED CHALLENGE BY COUNSEL. THE FEDERAL SENTENCING GUIDELINES DO NOT EXEMPT GOVERNMENT EMPLOYEES FROM INDICTMENT PERJURY OR OBSTRUCTION [3C1.1(C). 846. 3B1.3] AND CREATES LEVELS ABOVE NORMAL FOR SENTENCE.

THE CONGRESSIONAL GUIDELINES FOR SENTENCING BEING MANIPULATED TO INDUCE GUILT PLEAS SUCH AS 4% TO 11% DRUG STRENGTH [FED SEN 416. 423 1991] ALSO HAS MANIPULATION OF EXCESSIVE CHARGES FOR THOSE STANDING FOR THEIR CONSTITUTIONAL RIGHTS. THE SELECTIVE "SUPERSEDING

INFORMATION" GENERATES LENIENT [WARDEN - PETITIONER CHARGES-ZERO DRUGS-ZERO TIME] SENTENCING.

A11. ELEVENTH AMENDMENT STATING THE JUDICIAL POWER OF THE UNITED STATES SHALL NOT BE CONSTRUED TO EXTEND TO ANY SUIT IN LAW OR EQUITY.

A11.1 EQUITY BLOCKING BY THE GOVERNMENT GUILT CONTRACT PARDONS ANY SUIT AGAINST BOTH COUNSELS BY REQUIRING SIGNATURE OF CLIENT SATISFACTION IN SPITE OF PETITIONER FILING PRE-SENTENCE, 500 PAGES OF EVIDENCE TO THE STATE BAR.

A11.2 THE GOVERNMENT DUE PROCESS MISCONDUCT AND JUDICIAL ABUSE OF POWER IN DUE PROCESS AND BLOCKING ANY APPEAL OR REDRESS OF CONSTITUTIONAL GRIEVANCE. AND CONTEMPTIBLE DECISIONS AGAINST WORDING AND INTENT OF THE CONSTITUTION IS TO

MAINTAIN PETITIONER INDUCED GUILT.

A13. THIRTEENTH AMENDMENT STATING INVOLUNTARY SERVITUDE SHALL NOT EXIST EXCEPT AS A PUNISHMENT FOR A CRIME WHEREOF THE PARTY SHALL HAVE BEEN DULY CONVICTED. THE COURT'S PRESENTENCER IGNORING THE LEGAL AND BINDING CONTRACT YIELDING GUILT. SENTENCED BASED ON POST CONTRACT INTERROGATION. THE TWENTY YEAR OLD FEMALE, PRIOR TO DOWNWARD DEPARTURE:

	LEVEL/MONTHS	
THE CRIME WITH MINIMAL DRUGS	12	10
CO-DEFENDANT RESIDENCE DRUGS	+20	+111
CONGRESS PURE DRUG FANTASY	+ 2	+ 30
FIRE ARMS ONE MORE TIME	+ 2	+ 37
GANG LEADER	+ 2	+ 47
D.U.I SENTENCE COMPLETED	2HC	+ 27
MAXIMUM GUIDELINE (1ST OFFENSE)	---	+ 65
TOTAL WITHOUT POST GUILT	38-2	327

THE COURT'S NO CONTRACT SENTENCE WAS 27 YEARS+ OR 23 YEARS+ WITHOUT PAROLE.
THE GUILT CONTRACT DID NOT STATE THE GUN CHARGE, GANG LEADER, SENTENCE SERVED D.U.I., BUT DID STATE LOW GUIDELINE.

J3 JUDICIARY ARTICLE 3 STATES
THE JUDICIARY CANNOT ALLOW CITIZEN RIGHTS TO CONSTITUTIONAL LAW TO BE DILUTED OR ADVERSELY AFFECTED.

J3.1 THE GOVERNMENT [U.S. V AGURS] AND COURT ALLOWING THAT A CITIZEN IN HER TRESPASSED RESIDENCE, SEARCHED AND ARRESTED WITHOUT WARRANT, WITHOUT MIRANDA NOTICE AND UNDER CONTROL, MUST SIGNATURE A SEARCH CONSENT DOCUMENT [SCHNECKLOTH V BUSTAMONTE] ALLOWING A COMPLETED SEARCH. AIDS AND ABETS USURPING THE PETITIONER FORTH AMENDMENT RIGHT TO PRIVACY. 2255 WAS ENACTED IN ORDER TO AUTHORIZE RELIEF

COMPARABLE TO HABEAS CORPUS IF THE SENTENCE IMPOSED [STEAD V U.S.] WAS IN VIOLATION OF THE CONSTITUTION. THE JUDGE'S INSTRUCTION REQUIRING PETITIONER UNCONSTITUTIONAL INVOLUNTARY CONFESSION, REQUIRING PETITIONER INVOLUNTARY PERJURY OF NO KNOWN CONSTITUTIONAL VIOLATIONS. WITH PETITIONER GUILT WORD OR SIGNATURE ONLY HAVING VERITY.

J3.2 THE U.S. JUDGE STATED EFFECTIVE CONSTITUTIONAL COUNSEL IS DETERMINED BY AN ACTUAL SENTENCE BEING LESS THAT THE POSSIBLE MAXIMUM [DECOSTER V U.S., A.B.A. 2-6. 3-110 SP CT. McMANN V RICHARDSON. WAINWRIGHT V TORNA. MOORE V U.S.], WHEN THE STANDARD [COOPER V FITZHARRIS] NINTH CIRCUIT IS "REASONABLY COMPETENT AND EFFECTIVE REPRESENTATION".

J3.3 THE U.S. JUDGE FALSELY STATED THE [U.S. V SANTANA] HOT POLICE PURSUIT

PUBLIC VIEW WAS PETITIONER APPLICABLE. "SHE WAS EXPOSED TO PUBLIC VIEW, SPEECH, HEARING AND TOUCH AS IF SHE HAD BEEN STANDING OUTSIDE" TO THE PETITIONER EVIDENCE [CANNON 2A(A). TUMEY V U.S.].

IN SANTANA THE POLICE WERE WALKING DOWN THE SIDE WALK WITH PUBLIC VIEW OF MRS. SANTANA PRIOR TO MRS. SANTANA RUNNING INTO HER RESIDENCE. THE U.S. ATTORNEY AND U.S. JUDGE FOR THE RECORD IMPLY THE FOURTH AMENDMENT IS VOIDED BY GOVERNMENT VIEW THROUGH THE KITCHEN WINDOW OF A RESIDENCE BEING THE SAME AS HOT PURSUIT.

J3.4 THE JUDGE STATING AN UNREVIEWED GUILT CONTRACT STEALING CONSTITUTIONAL RIGHTS [U.S. V GOODMAN, JONES V U.S., U.S. V MARZGLIANO] WAS LEGALLY SATISFACTORY MISLEAD THE RECORD.

J3.5 THE JUDGE HAVING DETAILED COMPLAINT OF PREJUDICED DUE PROCESS [BERGER V U.S.,

McQUEEN V U.S., COLES V PEYTON, U.S. V WILKINS, CANNON 3C(1)(A), HOLLOWAY V ARKANSAS] MISCONDUCT PRIOR TO SENTENCING, WAS ASKED TO AND REFUSED [NADER V ALLEGHENY, FED SEN 6A1.3, LISENBA V CA, U.S. V BURTON] TO DELAY SENTENCING UNTIL FACT VERITY BE KNOWN.

J6 JUDICIARY ARTICLE 6 STATES **THE U.S. CONSTITUTION TAKES PRECEDENCE OVER ALL FEDERAL LAWS AND ALL POLITICAL TREATIES.** A STRICT STANDARD OF JUDICIAL REVIEW MUST BE APPLIED FOR ITEMS EXPRESSED OR IMPLIED IN THE U.S. CONSTITUTION. THE COURT BLOCKING FAIR CONDUCT AND RELIABLE RESULTS [STRICKLAND V WASHINGTON. PEOPLE V POPE. MARINO V U.S., PALKO V CONN] ALL DEFENSE WITNESSES AND [GILES V MARYLAND] EVIDENCE, BLOCKING CHRONOLOGICAL EVENT CONSTITUTIONAL LAW

REVIEW, BLOCKING ALL PETITIONER APPEAL MOTIONS [MOORHEAD V. U.S., POWERS V U.S., PYLE V KANSAS, DESMOND V U.S., DILLANE V U.S., U.S. V WILLIAMS, PORTER V U.S., TURNER V MARYLAND, FED SEN 6A1.3, CANNON 3A(4), ALFORD V U.S.] IS REQUIRED TO HOLD AN EVIDENTIARY HEARING.

J6. THE FEDERAL JUSTICE SYSTEM AND DEFENSE COUNSEL, CLASSIFYING ALL DRUG CRIME ACCUSED CITIZENS AS GUILTY UNTIL PROVEN INNOCENT, MUST HAVE PROOF THAT THE POLITICAL GOAL IS LEGAL. THE COURT AND COUNSEL CONSPIRACY TO IMPOSE A SENTENCE ON SOMEONE WITHOUT LEGAL COUNSEL REPRESENTATION [FED SEN 2H1.2] VIOLATES PETITIONER CIVIL RIGHTS.

E2 EXECUTIVE ARTICLE 2 THE PRESIDENT ONLY HAS THE POWER TO PROVIDE PARDON FOR FEDERAL CRIMES. U.S. ATTORNEY CANNOT PARDON COOPERATING COUNSEL/GOVERNMENT.

CONCLUSION

FROM THE GOVERNMENT ARMED WARRANTLESS NO KNOCK TRESPASS INSIDE THE PETITIONER'S RESIDENCE, THROUGH THE FIFTH MONTH OF CONSTITUTIONLESS DUE PROCESS CULMINATED WITH AN ILLEGAL AND ATTORNEY MANIPULATED CONTRACT TO FRAUDULENTLY INDUCE GUILT, AND FOR OTHER REASONS SET FORTH ABOVE, A WRIT OF CERTIORARI SHOULD ISSUE TO REVIEW THE JUDGEMENT AND OPINION OF THE COURT OF APPEALS IN THIS MATTER.

RESPECTFULLY SUBMITTED.

Dawn Elise Dykstra

DAWN ELISE DYKSTRA

PRO SE VIA REA CUIUS PATRONI

DEFENSIONE EUIS DESTITERUNT

DAD/DAWN DATE 4/24/94

DAWN ELISE DYKSTRA #24948-198 HOPI A

37930 N. 45TH AVE. DEPT 1785

PHOENIX, AZ. 85027-7056 602-465-9757

CHRONOLOGY OF APPEAL

10/90 TRIAL **ATTNY QUIT W/ $ W/O WORK**
4/91 BAR/COURT COMPLAINT AGAINST ATTNYS
4/91 COMPLAINT/EVID AGAINST GOVERNMENT
4/91 COURT SENTENCING IGNORE COMPLAINTS
1/92 APPEAL **ATTNY QUIT W/ $ W/O WORK**
3/92 APPEAL **ATTNY QUIT W/ $ W/O WORK**
4/92 DISTRICT APPEAL (AND OTHERS BY DAD)
6/92 PETITIONER REQ. FOR EXCULP EVID
6/92 PETITIONER REQ. TO INVESTIGATE
7/92 PETITIONER REQ. TO EXP. ORDER
8/92 PETITIONER REQ. TO EXP. ORDER
10/92 PETITIONER REQ. BLOCK INEFF ATTNY
11/92 PETITIONER CAUSE, NO CONY ATTNY
12/92 PETITIONER REQ. TO EXP. ORDER
1/93 PETITIONER REQ. STATUS HEARING
2/93 PETITIONER REQ. APPELLATE MANDAMUS
2/93 DISTRICT ORDER SIG., NO MAILING
3/93 APPELLATE TO 6/15/93 FOR DIST ORDER
5/93 DAD BUYS 2/93 DIST. (NO MAIL) ORDER
5/93 PETITIONER TO DISTRICT FOR TIME
5/93 PETITIONER TO APPELLATE FOR TIME
5/93 DISTRICT ALLOWS TIME FOR APPELLATE
5/93 PETITIONER FILES APPELLATE CIVIL
11/93 PETITIONER REQ. EXP. BY APPELLATE
12/93 PETITIONER INITIATE 3/93 AMICUS CUR
1/94 APPELLATE NO CONSTITUTIONAL ISSUES
1/94 PETITIONER REQ. FULL COURT REHEAR.
2/94 APPELLATE NO 7/93 MOTIONS ALLOWED
3/94 APPELLATE NO FULL COURT REHEARING

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA PLAINTIFF-RESPONDENT	)	CIV 92-605T CR 90-0891T
V.	)	ORDER RE: MOTION TO
DAWN ELISE DYKSTRA DEFENDANT-PETITIONER	)	VACATE, SET ASIDE OR CORRECT SENTENCE

THE COURT RECEIVED THE PETITIONER'S MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE ON APRIL 22, 1992, AND SUBSEQUENTLY RECEIVED ON MAY 11, 1992 A DOCUMENT ENTITLED "EVIDENCE ADDENDUM" TO THE MOTION. THE COURT ORDERED THE GOVERNMENT TO FILE A RETURN, WHICH IT DID ON JUNE 5, 1992, AND PETITIONER FILED A TRAVERSE ON JUNE 29, 1992. THE COURT HAS ALSO REVIEWED THE NUMEROUS AFFIDAVITS AND PRIVATE INVESTIGATION REPORTS FILED BY THE PETITIONER IN CONJUNCTION WITH THE MOTION.

THE COURT COULD NOT COMPREHEND NUMEROUS ALLEGATIONS SET FORTH IN PETITIONER'S PLEADINGS. IN AN EFFORT TO UNDERSTAND THE GROUNDS FOR THE MOTION, AND TO PROVIDE PETITIONER AN OPPORTUNITY TO PRESENT HER ISSUES IN A COMPLETE AN UNDERSTANDABLE MANNER, THE COURT APPOINTED A QUALIFIED AND RESPECTED MEMBER OF THE CALIFORNIA STATE BAR TO REPRESENT PETITIONER ON THE MOTION. PETITIONER DECLINED THE ATTORNEY'S ASSISTANCE. THEREFORE, THE COURT RULES ON THE MOTION BASED UPON THE DOCUMENTS SUBMITTED TO THE COURT REFERENCED ABOVE.

ON SEPTEMBER 12, 1990, PETITIONER WAS ARRESTED FOR DRUG TRAFFICKING. ON FEBRUARY 12, 1991, PETITIONER PLED GUILTY TO THE CHARGE OF CONSPIRACY TO POSSESS METHAMPHETAMINE WITH INTENT TO DISTRIBUTE. SHE WAS SENTENCED ON APRIL

29, 1991 IN ACCORDANCE WITH THE PLEA AGREEMENT TO 97 MONTHS IN CUSTODY FOLLOWED BY A FOUR YEAR PERIOD OF SUPERVISED RELEASE.

PETITIONER PROFFERS FOUR GROUNDS ON WHICH THE COURT CONCEIVABLY COULD GRANT HER MOTION TO VACATE, SET ASIDE OR CORRECT HER SENTENCE. ALTHOUGH PETITIONER RAISES VARIOUS ISSUES THROUGHOUT THE MOTION (OFTEN REPETITIVELY). PETITIONER HAS LABELED GROUNDS AS FOLLOWS: (1) INEFFECTIVE ASSISTANCE OF COUNSEL. (2) PROSECUTORIAL MISCONDUCT. (3) UNCONSTITUTIONAL EVIDENCE. AND (4) DENIAL OF THE RIGHT TO APPEAL. IN HER TRAVERSE, PETITIONER ALSO ALLEGES MENTAL INCOMPETENCY.

WITH RESPECT TO HER INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS. PETITIONER'S ALLEGATIONS CANNOT WITHSTAND

THE HEAVY BURDEN PLACED ON HER BY THE UNITED STATES SUPREME COURT IN STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984). UNDER STRICKLAND, PETITIONER MUST DEMONSTRATE THAT HER COUNSEL'S PERFORMANCE WAS DEFICIENT AND THAT THE DEFICIENT PERFORMANCE PREJUDICED HER DEFENSE. ID. AT 687. BARRING SATISFACTION OF BOTH THE PERFORMANCE AND THE PREJUDICE PRONGS, THE COURT CAN PRESUME THAT PETITIONER'S COUNSEL EXERCISED THE SKILL, JUDGEMENT AND DILIGENCE OF A COMPETENT ATTORNEY. RATHER THAN ADDRESS THE MYRIAD OF EXAMPLES OF ALLEGED DEFICIENT PERFORMANCE, THE COURT WILL SKIP TO AN ANALYSIS OF THE PREJUDICE PRONG OF STRICKLAND. PROCEEDING IN THIS MANNER, THE COURT FINDS THAT PETITIONER HAS FAILED TO DEMONSTRATE HER ATTORNEY'S PERFORMANCE PREJUDICED HER DEFENSE. THE

COURT FIRST OBSERVES THAT PETITIONER'S ATTORNEY, MITCHELL ROBINSON, HANDLED THE M O T I O N S H E A R I N G W E L L.

[FOOTNOTE..PETITIONER ALSO ATTACKS THE PERFORMANCE OF HER OTHER ATTORNEYS. SINCE MR. ROBINSON REPRESENTED PETITIONER ON THE SUBSTANTIVE MOTIONS. AT THE DISPOSITION, AND AT SENTENCING, THE COURT WILL REVIEW ONLY HIS PERFORMANCE TO DETERMINE IF PETITIONER WAS PREJUDICED.]

THE COURT ITSELF MIGHT HAVE QUESTIONED THE COMPETENCE OF MR. ROBINSON IF HE HAD RAISED SOME OF THE QUESTIONS THE PETITIONER WANTED HIM TO RAISE.

[FOOTNOTE..FOR EXAMPLE. PETITIONER ALLEGES THAT CERTAIN AGENTS DISTRACTED TESTIFYING WITNESSES. AND ALSO ALLEGES THAT TESTIFYING AGENTS WERE INTIMIDATED BY I.R.S. AGENTS.]

MR. ROBINSON CROSS-EXAMINED AND EXAMINED WITNESSES EFFECTIVELY. PLACING THE CREDIBILITY OF THE AGENTS AT ISSUE AND ELICITING USEFUL INFORMATION. THE FACT THAT THE COURT BELIEVED THE AGENTS' TESTIMONY AND RULED ACCORDINGLY DOES NOT

RENDER MR. ROBINSON'S PERFORMANCE DEFICIENT AND DOES NOT SERVE AS A BASIS TO FIND THAT PETITIONER WAS PREJUDICED. MOST SIGNIFICANTLY WITH RESPECT TO THE PREJUDICE ISSUE, THE COURT NOTES MR. ROBINSON SUCCEEDED IN PERSUADING THE GOVERNMENT TO DROP TWO CHARGES, AND HE FURTHER HAD THE SENTENCE REDUCED SUBSTANTIALLY BELOW THE LEVEL PETITIONER COULD HAVE RECEIVED. INDEED, THE COURT COMPLIMENTED MR. ROBINSON AT THE SENTENCING BY STATING, "YOU'VE DONE AN EXCELLENT JOB WHEN YOU REDUCE THE SENTENCE FROM 210 MONTHS TO 97 MONTHS. MR. ROBINSON. YOU'VE DONE AN EXCELLENT JOB FOR YOUR CLIENT.

"[FOOTNOTE..PETITIONER ORIGINALLY FACED A SENTENCE IN THE RANGE OF 210 MONTHS: HOWEVER, WHEN GOVERNMENT DROPPED A CHARGE, THE RANGE DECREASED TO 121 - 151 MONTHS. EVEN WITH THE CHARGES DROPPED. U.S. PROBATION RECOMMENDED 262 MONTHS IN CUSTODY.]

ADDITIONALLY, PETITIONER ASSERTED IN THE PLEA AGREEMENT THAT SHE WAS SATISFIED WITH THE SERVICES OF HER ATTORNEY. THEREFORE, BASED ON ALL THE FOREGOING, THE COURT FINDS THE PETITIONER HAS NOT SATISFIED THE PREJUDICE PRONG OF STRICKLAND AND THUS HAS NOT DEMONSTRATED INEFFECTIVE ASSISTANCE OF COUNSEL.

PETITIONER ALSO CANNOT PREVAIL ON THE SECOND GROUND OF PROSECUTORIAL MISCONDUCT. PETITIONER SPENDS CONSIDERABLE EFFORT TRYING TO PERSUADE THE COURT THAT THE AGENTS PERJURED THEMSELVES. THE DEA LAB TAMPERED WITH THE EVIDENCE. [FOOTNOTE..THE ONLY BASIS THE PETITIONER OFFERS FOR THIS CLAIM IS THAT THE EVIDENCE SEIZED IN THIS CASE DIFFERS FROM THE CONTROLLED SUBSTANCES SEIZED IN A DIFFERENT CASE.]

THE EVIDENCE ON THE KITCHEN TABLE COULD NOT BE SEIZED CONSTITUTIONALLY, ETC. THE COURT AGAIN POINTS OUT IT WEIGHED THE

CREDIBILITY OF THE DEFENSE WITNESSES AND FOUND THE AGENT'S TESTIMONY MORE BELIEVABLE. PETITIONER HAS NOT PROFFERED ANY EVIDENCE TO ALTER THE COURT'S OPINION. PETITIONER HAS THE BURDEN OF DEMONSTRATING THAT THE PROSECUTOR KNOWINGLY AND INTENTIONALLY ASKED THE AGENTS TO LIE ON THE STAND. AND PETITIONER HAS FAILED TO SUSTAIN THIS BURDEN. STEIN V. UNITED STATES, 390 F.2D 625 (9TH CIR. 1968) (DEFENDANT HAS BURDEN OF SHOWING NOT ONLY THAT PERJURED TESTIMONY WAS USED TO CONVICT HIM, BUT THAT PROSECUTOR KNOWINGLY AND INTENTIONALLY AUTHORIZED AGENTS TO LIE). PETITIONER ALSO CONTENDS THAT THE GOVERNMENT ENGAGED IN MISCONDUCT BY REFUSING TO INDICT AN ALLEGEDLY MORE CULPABLE MALE. THE COURT PRESUMES THAT THE GOVERNMENT COULD HAVE OR WILL CHARGE

OTHER PERSONS INVOLVED IF AND WHEN IT OBTAINS SUFFICIENT EVIDENCE TO DO SO. FINALLY, BY PLEADING GUILTY TO THE OFFENSE, PETITIONER HAS WAIVED ANY DEFENSES SHE COULD HAVE RAISED AT TRIAL, PROSECUTORIAL MISCONDUCT AMONG THEM. UNITED STATES V. BROCE, 488 U.S. 563, 569 (1989); HUDSON V. MORAN, 760 F.2D 1027, 1029-30 (9TH CIR.), CERT. DENIED, 474 U.S. 981 (1985). THE COURT FINDS NO INDEPENDENT GROUNDS FOR PROSECUTORIAL MISCONDUCT.

PETITIONER'S ARGUMENT THAT THE GOVERNMENT ADMITTED UNCONSTITUTIONAL EVIDENCE IS PATENTLY ERRONEOUS. THE COURT HELD A SUPPRESSION HEARING TO DETERMINE WHETHER THE GOVERNMENT HAD VIOLATED THE PETITIONER'S RIGHTS. THE COURT CONCLUDED THAT GOVERNMENT HAD RESPECTED THE PETITIONER'S RIGHTS. ADDITIONALLY, THE

COURT FOUND THAT A SUFFICIENT FACTUAL BASIS EXISTED TO ALLOW PETITIONER TO PLEAD GUILTY TO THE CONSPIRACY CHARGE. FINALLY, AGAIN, AS WITH PROSECUTORIAL MISCONDUCT ALLEGATION, BY PLEADING TO THE OFFENSE PETITIONER WAIVED ANY PRE-PLEA CONSTITUTIONAL VIOLATIONS.

SUBSUMED IN HER OTHER CLAIMS. BUT MOST PREVALENT IN HER CLAIM THAT SHE WAS DENIED THE RIGHT TO APPEAL, PETITIONER CONTENDS THAT SHE DID NOT ENTER THE PLEA VOLUNTARILY AND INTELLIGENTLY. THE COURT SPECIFICALLY INQUIRED OF PETITIONER AT THE DISPOSITION WHETHER SHE UNDERSTOOD THE NATURE OF THE PROCEEDINGS. AND SHE REPLIED IN THE AFFIRMATIVE. IN ACCEPTING HER PLEA, THE COURT ALSO SPECIFICALLY INQUIRED WHETHER SHE UNDERSTOOD HER RIGHTS, READ THE PLEA AGREEMENT AND REALIZED SHE WAS WAIVING HER RIGHT TO

APPEAL UNDER THE TERMS OF THE PLEA AGREEMENT. AGAIN, PETITIONER RESPONDED THAT SHE UNDERSTOOD HER RIGHTS AND OBLIGATIONS. PETITIONER'S ARGUMENT THAT SHE ONLY HAD A TENTH GRADE EDUCATION CANNOT SUCCEED BECAUSE THAT LEVEL OF EDUCATION IS HIGHER THAT MOST DEFENDANT'S WHO APPEAR BEFORE THE COURT ON SIMILAR CHARGES. THE COURT BELIEVES THAT IT PROVIDED PETITIONER EVERY OPPORTUNITY TO REQUEST EXPLANATIONS. BASED ON THIS BELIEF, AND ON THE RECORD, THE COURT FINDS THAT PETITIONER ENTERED AN INTELLIGENT AND KNOWING WAIVER. PARTICULARLY IN LIGHT OF THE COMPARATIVELY FAVORABLE TERMS. SEE SHAH V. UNITED STATES. 878 F.2D 1156. 1158 (9TH CIR.). CERT. DENIED. 493 U.S. 869 (1989) (DEFENDANT WHO ENTERS GUILT PLEA ON ADVISE OF COUNSEL MAY ATTACK VOLUNTARY

AND INTELLIGENT CHARACTER OF PLEA BY SHOWING THAT COUNSEL ACTED INCOMPETENTLY BY ADVISING DEFENDANT TO ACCEPT PLEA). PETITIONER ALLEGES IN HER TRAVERSE, FOR THE FIRST TIME, THAT SHE WAS NOT MENTALLY COMPETENT TO ENTER A PLEA OF GUILTY. THE COURT FOUND NO INDICATION OF MENTAL INCOMPETENCE IN PETITIONER AT ANY TIME DURING ANY OF THE COURT PROCEEDINGS. SEE WILLIAMS V. COUGHLIN, 664 F. SUPP. (S.D.N.Y. 1987) (TRIAL COURT MUST HAVE SUFFICIENT REASON TO DOUBT PETITIONER'S COMPETENCY BEFORE IT IS REQUIRED TO CONDUCT COMPETENCY HEARING). CONSEQUENTLY, THE COURT REJECTS PETITIONER'S CLAIM OF MENTAL INCOMPETENCE AND REFUSES TO GRANT PETITIONER'S MOTION ON THIS GROUND. THEREFORE, BASED ON THE FOREGOING, IT IS ORDERED THAT THE PETITIONER'S MOTION IS DENIED.

DATE: FEBRUARY 8, 1993

S/HOWARD B. TURRENTINE
HON. HOWARD B. TURRENTINE
UNITED STATES DISTRICT JUDGE

COPY TO:
DAWN ELISE DYKSTRA
PHOENIX, AZ 85027

JOHN KRAEMER, ESQ.
AUSA

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA)	93-55747
PLAINTIFF-APPELLEE)	CV92-0605T
)	CR90-0891T
V.)	
)	MEMORANDUM*
DAWN ELISE DYKSTRA)	
DEFENDANT-APPELLANT)	

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR SOUTHERN DISTRICT OF CALIFORNIA HOWARD B. TURRENTINE.DISTRICT JUDGE.PRES.

SUBMITTED DECEMBER 20, 1993**

BEFORE: SNEED, NOONAN & TROTT, CIR JUDGES

FEDERAL PRISONER DAWN ELISE DYKSTRA APPEALS PRO SE THE DISTRICT COURT'S DENIAL OF HER 28 U.S.C. 2255 MOTION CHALLENGING HER SENTENCE. DYKSTRA PLED GUILTY TO CONSPIRACY TO POSSESS METHAMPHETAMINE WITH INTENT TO DISTRIBUTE IN VIOLATION OF 21U.S.C. 841(A)(1) AND 846. DYKSTRA CLAIMS THAT THE PLEA AGREEMENT SHE ENTERED INTO WITH THE GOVERNMENT, WHICH INCLUDED A SPECIFIC

WAIVER OF HER RIGHT TO APPEAL, WAS NOT KNOWING AND VOLUNTARY; THAT SHE WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL; AND THAT GOVERNMENT ENGAGED IN PROSECUTORIAL MISCONDUCT.

[FOOTNOTE..* THIS DISPOSITION IS NOT APPROPRIATE FOR PUBLICATION AND MAY NOT BE CITED TO OR BY THE COURTS OF THIS CIRCUIT EXCEPT AS PROVIDED BY 9TH CIR. R.36-3.] [FOOTNOTE..** THE PANEL UNANIMOUSLY FINDS THIS CASE SUITABLE FOR DECISION WITHOUT ORAL ARGUMENT. FED. R. APP. P. 34(A); 9TH CIR. R. 34-4.]

WE HAVE JURISDICTION UNDER U.S.C. 2255. WE REVIEW DE NOVO. UNITED STATES V. ANGELONE. 884 F.2D 1129. 1130 (9TH CIR. 1990), AND AFFIRM. A DEFENDANT WHO WAIVES THE RIGHT TO APPEAL MADE IN CONNECTION WITH A PLEA BARGAIN IS PRECLUDED FROM COLLATERALLY ATTACKING THE SENTENCE. NOTWITHSTANDING A CHALLENGE THAT THE SENTENCE IMPOSED WAS NOT IN ACCORDANCE WITH THE NEGOTIATED AGREEMENT. UNITED

STATES V. ABARCA, 985 F.2D 1012, 1014 (9TH CIR.), CERT DENIED, 113 S. CT. 2980 (1993); UNITED STATES V. NAVARRO-BOTELLO, 912 F.2D 318, 321 (9TH CIR. 1990) CERT. DENIED, 112 S. CT. 1488 (1992). THEREFORE, IN A SECTION 2255 MOTION, A DEFENDANT WHO PLEADS GUILTY IS LIMITED TO ALLEGING THAT HIS PLEA WAS NOT VOLUNTARY AND INTELLIGENT OR THAT HE RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL. UNITED STATES V. BROCE, 488 U.S. 563, 569 (1989); MARBY V. JOHNSON, 467 U.S. 504, 508 (1984); ABARCA, 985 F.2D AT 1013; NAVARRO-BOTELLO, 912 F.2D AT 322.

A GUILTY PLEA IS VOLUNTARY AND INTELLIGENT WHEN THE ACCUSED IS MADE AWARE OF THE NATURE AND ELEMENTS OF THE CHARGES AGAINST HIM AND THE POSSIBLE PUNISHMENT THAT HE FACES, AND UNDERSTANDS THAT HE IS WAIVING HIS CONSTITUTIONAL

RIGHTS TO AVOID COMPULSORY SELF-INCRIMINATION, TO CONFRONT HIS ACCUSER, AND TO TRIAL BY JURY. BRADY V. UNITED STATES, 397 U.S. 742, 749 (1970); BOYKIN V. ALABAMA 395 U.S. 238, 242-43 (1969). STATEMENTS MADE IN OPEN COURT AT THE TIME OF A PLEA CARRY A STRONG PRESUMPTION OF VERITY. CHIZEN V. HUNTER, 809 F.2D 560, 562 (9TH CIR 1986).

WHENEVER THE TRIAL JUDGE ENTERTAINS OR REASONABLY SHOULD ENTERTAIN A GOOD FAITH DOUBT AS TO THE DEFENDANT'S ABILITY TO UNDERSTAND THE NATURE AND CONSEQUENCES OF ENTERING A PLEA OF GUILTY, DUE PROCESS REQUIRES THE COURT HOLD A HEARING, SUA SPONTE ON THE DEFENDANT'S COMPETENCE TO PLEAD GUILTY. CHAVEZ V. UNITED STATES. 656 F.2D 512. 519 (9TH CIR. 1981).

A DEFENDANT WHO ENTERS A GUILTY PLEA ON ADVICE OF COUNSEL MAY ATTACK THE

VOLUNTARY AND INTELLIGENT CHARACTER OF THE PLEA BY SHOWING THAT COUNSEL ACTED INCOMPETENTLY BY ADVISING DEFENDANT TO ACCEPT THE PLEA. SHAH V. UNITED STATES, 878 F.2D 1156 (9TH CIR.), CERT. DENIED, 493 U.S. 869 (1989). TO ESTABLISH THAT COUNSEL WAS INEFFECTIVE DURING THE PLEA PROCEEDINGS, THE TWO PART TEST OF STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984) APPLIES. HILL V. LOCKHART, 474 U.S. 52, 57 (1985). THUS, THE DEFENDANT MUST SHOW THAT COUNSEL'S ADVICE AS TO THE CONSEQUENCES OF THE PLEA WAS NOT WITHIN THE RANGE OF COMPETENCE DEMANDED OF CRIMINAL ATTORNEYS. AND THAT BUT FOR COUNSEL'S ADVICE, HE WOULD NOT HAVE PLEAD GUILTY. HILL, 474 U.S. AT 58: DOGANIERE V. UNITED STATES, 914 F.2D 165, 168 (9TH CIR. 1990), CERT. DENIED, 499 S. CT. 940 (1991).

DURING DYKSTRA'S SENTENCING HEARING THE COURT ADVISED HER OF HER RIGHT TO PERSIST IN HER PLEA OF NOT GUILTY, TO REMAIN SILENT. TO A SPEEDY AND PUBLIC TRIAL BY JURY. TO CONFRONT AND CROSS EXAMINE WITNESSES WHO TESTIFIED AGAINST HER, AND TO HAVE SUBPOENAS ISSUED TO HAVE PEOPLE TESTIFY ON HER BEHALF. DYKSTRA TOLD THE COURT SHE UNDERSTOOD THOSE RIGHTS. DISCUSSED THEM WITH HER ATTORNEY AND WISHED TO WAIVE THEM AND ENTER A PLEA OF GUILTY.

THE COURT ADVISED HER THAT THE MAXIMUM PENALTY FOR THE OFFENSE WAS UP TO FORTY YEARS IN PRISON. A FIVE YEAR TERM OF SUPERVISED RELEASE. AND UP TO A $2 MILLION FINE. DYKSTRA TOLD THE COURT THAT OTHER THAN THE PROMISES IN THE PLEA AGREEMENT, NO OTHER PROMISES OF REWARD OR IMMUNITY OR LESSER SENTENCE HAD BEEN MADE

TO INDUCE HER PLEA. IN ACCEPTING HER PLEA, THE COURT ALSO SPECIFICALLY INQUIRED WHETHER SHE READ THE PLEA AGREEMENT AND REALIZED THAT SHE WAS WAIVING HER RIGHT TO APPEAL UNDER THE TERMS OF THE PLEA AGREEMENT. DYKSTRA RESPONDED THAT SHE WAS WAIVING HER RIGHT TO APPEAL UNDER THE TERMS OF THE PLEA AGREEMENT. MOREOVER, THE COURT FOUND NO INDICATION THAT DYKSTRA WAS MENTALLY INCOMPETENT TO ENTER HER PLEA AS SHE ALLEGES FOR THE FIRST TIME IN HER 2255 MOTION. THUS. DYKSTRA'S GUILTY PLEA WAS VOLUNTARY AND INTELLIGENT. SEE BRADY. 397 U.S. AT 749: BOYKIN 395 U.S. AT 243:CHIZEN. 809 F.2D AT 562. 565 F.2D AT 519.

DYKSTRA'S CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL FAILS TO MEET THE FIRST PRONG OF THE STRICKLAND TEST. DYKSTRA WAS

CHARGED WITH TWO COUNTS OF CONSPIRACY TO POSSESS METHAMPHETAMINE WITH INTENT TO DISTRIBUTE AND ONE COUNT OF UNLAWFUL POSSESSION OF FIREARMS, WHICH CARRIED A POSSIBLE SENTENCE OF 210 MONTHS. A FIVE YEAR TERM OF SUPERVISED RELEASE AND UP TO A $2 MILLION FINE. HOWEVER COUNSEL SUCCEEDED IN PERSUADING THE GOVERNMENT TO DROP TWO OF THE THREE CHARGES BROUGHT AGAINST DYKSTRA. AND HAD THE SENTENCE REDUCED TO 97 MONTHS. DYKSTRA TOLD THE COURT THAT SHE DISCUSSED THE NEGOTIATED PLEA WITH HER ATTORNEY. AND ASSERTED IN HER PLEA AGREEMENT THAT SHE WAS SATISFIED WITH THE SERVICES OF HER ATTORNEY. ACCORDINGLY, COUNSEL'S RECOMMENDATION THAT DYKSTRA PLEAD GUILTY TO A REDUCED CHARGE DID NOT FALL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS. SEE STRICKLAND, 466 U.S. AT 687-88. THUS THE

DISTRICT COURT DID NOT ERR IN DENYING DYKSTRA'S CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL. SEE HILL. 474 U.S. AT 56-7. IN HER 2255 MOTION. DYKSTRA ALSO CLAIMS THAT THE GOVERNMENT WAS INVOLVED IN CERTAIN PROSECUTORIAL MISCONDUCT INCLUDING ILLEGAL SEARCH AND SEIZURE. GOVERNMENTAL USE OF "UNCONSTITUTIONAL EVIDENCE". PERJURY. EVIDENCE TAMPERING. AND WITHHOLDING OF EXCULPATORY EVIDENCE. HOWEVER. DYKSTRA IS PRECLUDED FROM RAISING THESE ISSUES IN HER 2255 MOTION BECAUSE SHE HAS MADE A KNOWING AND VOLUNTARY WAVIER OF HER RIGHT TO APPEAL IN HER PLEA AGREEMENT. SEE BROCE. 488 U.S. AT 569: ABARCA. 985 F.2D AT 1014: NAVARRO-BOTELLO. 912 F.2D AT 231.

AFFIRMED.

APPENDIX C

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA	) 93-55747
PLAINTIFF-APPELLEE	) CV92-0605HBT
	) CR90-0891HBT
V.	)
	) ORDER
DAWN ELISE DYKSTRA	)
DEFENDANT-APPELLANT	)

BEFORE: SNEED, NOONAN & TROTT, CIR JUDGES

APPELLANT'S "MOTION TO INITIATE AMICUS CURIAE AND U.S. ATTORNEY TRUTH ADMISSION" FILED DECEMBER 30, 1993 IS CONSTRUED AS A MOTION FOR CONTINUANCE. BECAUSE THE DISPOSITION OF THIS APPEAL HAS ALREADY BEEN FILED. APPELLANT'S MOTION IS MOOT. AND IS HEREBY DENIED.

APPENDIX D

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA)	93-55747
PLAINTIFF-APPELLEE)	CV92-0605HBT
V.)	CR90-0891HBT
)	
DAWN ELISE DYKSTRA)	ORDER
DEFENDANT-APPELLANT)	

BEFORE: SNEED, NOONAN & TROTT, CIR JUDGES

THE PANEL HAS VOTED TO DENY APPELLANT'S PETITION FOR REHEARING AND TO REJECT THE SUGGESTION FOR REHEARING EN BANC. THE FULL COURT HAS BEEN ADVISED OF THE SUGGESTION FOR HEARING EN BANC AND NO ACTIVE JUDGE HAS REQUESTED A VOTE ON WHETHER TO REHEAR THE MATTER EN BANC. FED. R. APP. P. 35. THE PETITION FOR REHEARING IS DENIED AND THE SUGGESTION FOR REHEARING EN BANC IS REJECTED.